

**REMARKS**

**I. Overview**

These remarks are set forth in response to the Non-Final Office Action. Presently, claims 1 through 42 are pending in the Patent Application. Claims 1, 33, 34, 35, 36, 37, 38 and 39 are independent in nature. In the Non-Final Office Action, the Examiner has rejected claim 38 under 35 U.S.C. § 101. Further, Examiner has rejected claims 1 through 13, 16 through 18, 20 through 22 and 25 through 38 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,720,982 to Sakaguchi et al. ("Sakaguchi"). Further, claims 14, 15 and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sakaguchi in view of U.S. Patent No. 5,933,141 to Smith et al. ("Smith"). Yet further, claim 23 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sakaguchi in view of U.S. Patent Application Publication No. 2004/0093563 by Pasquali et al. (Pasquali). Even yet further, claim 24 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sakaguchi in view of U.S. Patent No. 5,559,505 to McNair et al. ("McNair"). Finally, claims 39 through 42 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sakaguchi in view of U.S. Patent No. 6,633,310 to Andrew et al. (Andrew).

**II. The Applicants' Invention**

The Applicant has invented both systems and methods for displaying content of a web page to a user on a computing device. In an embodiment of Applicant's invention, the content includes an interactive interface element or elements for display to a user and with which a user may normally interact. Instructions are provided for generating a

protection component to overlay at least a portion of the web page content. Additional instructions are provided for receiving data indicative of an attempt at user interaction with an element from the web page. Thereafter, the generated protection component is used in preventing user interaction with the element from the web page.

### III. Rejection Under 35 U.S.C. § 101

On page 2 of the Non-Final Office Action, Examiner has rejected claim 38 under 35 U.S.C. § 101 in that Examiner views claim 38 to embody a "computer data signal" which Examiner believes to fall outside of the enumerated statutory categories of patentable subject matter. Specifically, Examiner states:

Claim 38 discloses "a computer data signal transmitted over a network". The computer data signal itself is a form of code or algorithm rather than a machine, manufacture, process or composition of matter. As such, it fails to fall within a statutory category. Therefore, claim 38 is rejected because the claimed invention is directed to non-statutory subject matter.

Applicant interprets Examiner's rejection of claim 38 to have been grounded in the holding of In re Nuijten<sup>1</sup> in which the Federal Circuit expressly held,

A transitory, propagating signal like Nuijten's is not a "process, machine, manufacture, or composition of matter." Those four categories define the explicit scope and reach of subject matter patentable under 35 U.S.C. § 101; thus, such a signal cannot be patentable subject matter.<sup>2</sup>

Of note, however, the court in In re Nuijten did not object to and the United States Patent and Trademark Office (USPTO) allowed a particular type of signal claim that recited a storage medium holding a resulting signal.<sup>3</sup> Specifically, the Federal Circuit in In re Nuijten and the USPTO did not find the recitation of "a storage medium having stored

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<sup>1</sup> 500 F.3d 1346 (Fed. Cir. 2007)

<sup>2</sup> Id. at 1357.

<sup>3</sup> Id. at 1351.

thereon a signal with embedded supplemental data" to be non-statutory. As such, Applicant, conforming to the dicta of the Federal Circuit in In re Nuitjen and the previous judgment of the USPTO has amended claim 38 to substantially comport with the holding in In re Nuitjen and the allowed claims expounded upon therein.

#### IV. Rejections Under 35 U.S.C. § 102(b) and 103(a)

##### A. Characterization of Sakaguchi

Sakaguchi claims a misoperation prevention method, apparatus, and storage medium. According to Sakaguchi, operator input interfering with the normal operation of an application can be invalidated. More particularly, a transparent window can be previously generated behind an application for which an operator mis-operation can occur, for example, a mouse click. Upon the detection of the occurrence of an operation predetermined to be a mis-operation with respect to the application, the mis-operation--such as an errant double click--can be invalidated by placing the transparent window in front of the application to receive the mis-operation in lieu of the application.

##### B. Amendments to the Claims

Applicant has amended claims 1, 33, 35, 37, 38 and 39 to incorporate limitations consistent with those of claim 8 that has been canceled herein. Accordingly, no new matter has been added. Claim 8 previously provided for third instructions loading the web page content as a child, embedded page inside a wrapper page. Claim 8 further provided that the third instructions place in front of the web page content the protection component on a computing device's display unit. In that Applicant believes Sakaguchi to

lack the specific teachings of claim 8, Applicant's remarks in connection with the amended claims 1, 33, 35, 37, 38 and 39 are limited to Examiner's analysis of former claim 8 on page 6 of the Non-Final Office Action. Applicant further notes that originally filed claims 34 and 36 already incorporated limitations similar to those of claim 8 and the remarks set forth herein apply equally to un-amended claims 34 and 36.

C. Traversal of the Rejections on the Art

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference.<sup>4</sup> Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art and that such existence would be recognized by one having ordinary skill in the art.<sup>5</sup> Absence from an allegedly anticipating prior art reference of any claimed element negates anticipation.<sup>6</sup> Applicant upon review of the cited portion of Sakaguchi, observes that Sakaguchi lacks a teaching directed to the claimed elements of independent claims 1, 33, 34, 35, 36, 37 and 38 formerly included as part of now canceled claim 8 and thus cannot form the basis of a rejection under 35 U.S.C. § 102.

Specifically, claim 1 recites a system for displaying content of a web page to a user on a computing device. As set forth in claim 1 the computing device includes a

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<sup>4</sup> *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997) ("To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently"), *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

<sup>5</sup> See *In re Spada*, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); *Diversitech Corp. v. Century Steps Inc.*, 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

<sup>6</sup> *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986)(emphasis added).

processor to execute instructions, and the content includes an interactive interface element for display to a user. For the convenience of the Examiner, claim 1 as amended is reproduced herein as follows:

1. A system for displaying content of a web page to a user on a computing device, wherein the computing device includes a processor to execute instructions, wherein the content includes an interactive interface element for display to a user, comprising:
  - one or more first instructions for generating a protection component to overlay at least a portion of content of the web page;
  - one or more second instructions for receiving data indicative of an attempt at user interaction with an element from a web page;
  - one or more third instructions for loading the web page content as a child, embedded page inside a wrapper page;
  - wherein the overlaid portion covers the element from the web page;
  - wherein the generated protection component is used in preventing user interaction with the element from the web page;
  - wherein the third instructions place in front of the web page content the protection component on a computing device's display unit.

Integral to amended claim 1 is the presence of "third instructions" that load the web page content as a child, embedded page inside a wrapper page and place in front of the web page content the protection component on the display unit of the computing device.

With respect to now canceled claim 8, Examiner argued that column 3, lines 65 through 67 of Sakaguchi provided just such a teaching of "third instructions" that load the web page content as a child, embedded page inside a wrapper page and place in front of the web page content the protection component on the display unit of the computing device. Specifically, on page 6 of the Non-Final Office Action, Examiner stated:

Regarding claim 8, Sakaguchi discloses a system of claim 1 further comprising: one or more third instructions for loading the web page content as a child, embedded page inside a wrapper page; wherein the third instructions place in front of the web page content the protection component on a computing device's display unit "FIG. 6 is a figure showing the HTML for generating the transparent window in the preferred embodiment of the present invention" Col. 3 lines 65-67.

Referring to column 3, lines 65 through 67, Applicant cannot locate the teaching referenced by Examiner. Rather, column 3, lines 65 through 67 of Sakaguchi merely

reflect a brief description of Figure 6 of Sakaguchi as set forth verbatim as follows:

"FIG. 6 is a figure showing the HTML for generating the transparent window in the preferred embodiment of the present invention". Figure 6, in turn, provides no implied or express teaching directed to the embedding of Web page content as a child to a wrapper page AND the placement of the protection component in front of the Web page content on the display unit of the computing device. For the convenience of Examiner, a verbatim reproduction of Figure 6 is provided as follows:

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<HTML> <HEAD>
<SCRIPT LANGUAGE="JavaScript">
var DW=Packages.dw;

function init() {
    DW.start(0,0,1024,768); 401
}

</SCRIPT>
</HEAD>
<BODY onLoad="init()">
</BODY> </HTML>
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**Figure 6** 400

As Examiner will recognize from Figure 6 of Sakaguchi, only the presence of an initialization function in the form of a Javascript in markup is shown--nothing more.

V. Conclusion

To the extent that the critical claim element of "third instructions" that load the web page content as a child, embedded page inside a wrapper page and place in front of the web page content the protection component on the display unit of the computing device cannot be found in Sakaguchi, a prima facie case of anticipation cannot be supported thereby with respect to amended claims 1, 33, 34, 35, 36, 37 and 38 and originally filed claims 34 and 36. Therefore, the Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. §§ 101 and 102(b) owing to the amended claims and the foregoing remarks. The Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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